In the High Court of Punjab and Haryana at Chandigarh.

Civil Revision No.1996 of 2007.

Date of decision:23.4.2007.

Jaswant Singh

...Petitioner.

Versus

Gurlabh Kaur and others.

...Respondents.

...

Coram: Hon'ble Mr. Justice S. N. Aggarwal.

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Present: Mr.Arun Jain Advocate for the petitioner.

Mr.H. S. Bhullar Advocate for the respondents.

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Judgment.

S. N. Aggarwal, J.

Pritpal Singh (predecessor-in-interest of respondent No.1) was the owner of shed No.238, Industrial Area, Phase 1, Chandigarh. He had inducted the petitioner as a tenant on a monthly rent of Rs.650/-. The ejectment of the petitioner was sought on the ground of subletting.

The petitioner filed written statement and denied the averments made by the respondent in the ejectment petition. It was alleged by him that he had not parted with the possession of the demised property and that Karnail Singh and Rikh Dev were working with him on piece work job basis.

Issues were framed.

The parties led the evidence.

The learned Rent Controller accepted the rent petition vide impugned order dated 16.1.2001 and directed the petitioner to hand over vacant possession of the demised property to the landlord.

The petitioner filed an appeal. The learned Appellate Authority up-held the findings of fact recorded by the learned Rent Controller and dismissed the appeal vide judgment dated 26.2.2007.

Hence, the present revision petition.

The submission of learned counsel for the petitioner was that Karnail Singh was working on job basis while Rikh Dev was his employee and the petitioner has not parted with the possession as was also proved from the report of the Local Commissioner. Hence, it was prayed that the judgments of the Courts below be set aside.

On the other hand, the submission of respondent-landlord was that the petitioner has sublet the premises to Karnail Singh and Rikh Dev . It was further submitted that not only the subletting is proved but Karnail Singh has also handed over the vacant possession of a part of suit property in his possession to the petitioner on 17.3.2007 for which he had filed an application on 19.3.2007 in the learned trial Court. Hence, it was prayed that both the Courts have given concurrent finding of fact which would not call for any interference.

Considered.

Admittedly, Karnail Singh and Rikh Dev are working in the demised property. The petitioner had alleged that Karnail Singh was

working on job basis while Rikh Dev was his employee. The petitioner could not produce the accounts of income to prove that the Maharaja Industries were being run by the petitioner. Even the Local Commissioner who was appointed by the Courts below had reported that the property was divided into four parts. One part was in possession of the petitioner which was locked and on looking through the window, he found some office furniture lying therein. There were three small rooms which were being used as bath rooms and toilets. The second portion was in possession of Hardev Singh son of Sardara Singh whereas third portion was occupied by the machines for manufacturing steel screws. The workers working there had responded that they were the employees of Karnail Singh. The fourth portion was in exclusive possession of Rikh Dev. This report,therefore, was sufficient to conclude that the major portion of the demised property was in possession of different persons and the petitioner had no control over their exclusive possession. It clearly proves subletting by the petitioner.

In the cross-examination, the petitioner had admitted that Karnail Singh has kept 4 or 5 workers under him and he pays salary to them of his own. He also admitted that Rikh Dev had engaged some other persons for repair of grills and shutters. He further deposed that he has no concern with the payment of any person employed by the two. He also admitted that while Rikh Dev was doing the work of repair of grills and shutters, Karnail Singh was carrying on the work of manufacturing of screws on job basis. These admissions clearly proved that both Rikh Dev and Karnail Singh were doing separate business.

The petitioner while appearing as RW1 also pleaded his

ignorance if any telephone No.653754 was also installed in the demised property or if it was in the name of Rikh Dev who got printed and circulated his visiting cards as proprietor of Hari Dev Steel by giving his address. He even pleaded his ignorance if Hari Dev Steel was being run from shed No.238, Industrial Area, Phase 1, Chandigarh. The ignorance of the petitioner clearly reveals that virtually he has no knowledge about the factual position of the demised premises.

The submission of learned counsel for the petitioner was there was only one outer gate of the industrial shed in dispute and the key always remained with him. It was also submitted that the petitioner was also present at the time of visit of Local Commissioner. Hence, it was prayed that subletting is not proved.

These submissions have been considered. Merely because there is one main gate to the shed does not prove if the petitioner is in possession of the suit property. One gate has one lock but one lock may have many keys. One key may be with the petitioner while the other keys may be with some sub tenants. Therefore, merely because there is one gate or the key of the lock remains with the petitioner does not prove his possession.

The Local Commissioner has clearly reported that the demised property was divided into four parts and one part of this property was in possession of Jaswant Singh which consisted of office room, bath rooms and toilets. The remaining part of industrial unit was in possession of three separate persons who were running their separate business. Therefore, subletting is clearly proved particularly when the petitioner has admitted that Rikh Dev and Karnail Singh employ persons separately and salary to

those workers was being paid by each of them separately.

As discussed above, the petitioner is not aware about the factual position if the business is being run in the name of Hari Dev Steels or if the visiting cards have been got published by Rikh Dev as proprietor of Hari Dev Steels showing the address of the demised property or if another telephone is installed in this property. These admissions or lack of knowledge on the part of the petitioner clearly shows that he has no control over the possession of the suit property.

Moreover, it is proved by documentary evidence by the respondents that Karnail Singh has handed over the possession of portion in his possession to the petitioner on 17.3.2007 for which he had filed an application on 19.3.2007.

Both the Courts have recorded concurrent findings of fact that the petitioner has sublet the premises to different tenants and this Court does not find any ground to interfere with the same.

No merit.

Dismissed.

However, if the petitioner furnishes a written undertaking in the learned trial Court upto 5.5.2007 that he would vacate the demised property upto 31.7.2007, then the execution proceedings shall remain stayed. However, if the petitioner fails to furnish written undertaking upto 5.5.2007, then the respondent-landlords would be at liberty to seek the execution of the ejectment order passed by the Courts below.

April 23,2007. (S. N. Aggarwal)
Jaggi Judge